**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH**
**AT HYDERABAD**

# THE HONOURABLE SRI JUSTICE P. S. NARAYANA

W.P.No.18759 of 2006 & C.C. No.1152 of 2006

Dated: 05-02-2007

**Between:**

1. Surisetty Sreenivasulu, s/o late Surisetty Chennaiah,
   aged about 57 years, agriculture,
   r/o Veljal village, Talakondapalli Mandal,
   Mahaboobnagar District and 3 others.

**... Petitioners**

**and**

1. The Grampanchayat, Veljal village,
   rep. by its Secretary, Veljal village,
   Talakondapally Mandal,
   Mahaboobnagar District and 3 others.

**... Respondents**

**COMMON ORDER:**

Heard learned counsel.

2. Writ Petition No.18759 of 2006 is filed by the writ petitioners praying for issuance of appropriate writ, more particularly one in the nature of *mandamus* declaring the

action of the respondents in not mutating the names of the petitioners in the Gram Panchayat records in respect of the site admeasuring 2400 square yards in Ward No.3 situated in Veljal village, Talakondapalli Mandal, Mahabubnagar District within the specified boundaries, as arbitrary, illegal and violative of Article 300-A of the Constitution of India and consequently direct the respondents to mutate the names of the petitioners in the Gram Panchayat records in respect of the said property and to pass such other orders.

3. This Court, on 18-09-2006 while issuing *Rule nisi,* in W.P.M.P. No.23587 of 2006, made the following order--

> "In view of the facts and circumstances of the case, respondents 1 and 2 are directed to take steps to mutate the names of the petitioners in respect of house and house site admeasuring 2400 square yards in Ward No.3 situated in Veljal village, Talakondapalli Mandal, Mahabubnagar,
> in view of the applications dated 08-07-1998, 26-06-2006 and 21-07-2006, in accordance with law, within a period of four weeks (04) from today."

4. Surisetty Raghavender filed W.P.M.P.No.27926 of 2006 to implead himself as a party to the writ petition and the said application was allowed by this Court, as per the order, dated 19-10-2006 and thus the said Surisetty Raghavender was impleaded as fourth respondent in the writ petition. The said fourth respondent filed W.V.M.P.No.25 of 2007 to vacate the interim order specified supra.

5. Petitioners in the writ petition filed Contempt Case No.1152 of 2006 to punish the respondents 1 to 3 since they had violated the orders made by this Court specified above. This Court ordered Notice Before Admission on 13-11-2006. The first respondent filed counter affidavit stating that the respondents in the contempt case are taking steps to implement the orders of this Court.

6. Since the writ petition and the contempt case are connected, both are being disposed of by this common order.

7. Submissions at length are made by Sri Srinivasa Rao Velivela, learned counsel representing the petitioners, Sri K. Upender Reddy, learned standing counsel, representing the respondents 1 to 3 and
Sri Vijay Kumar Heroor, learned counsel representing the fourth respondent, in the writ petition.

8. The petitioners had stated that originally an extent of 2400 square yards, corrected in the affidavit filed in support of the writ petition as 1200 square yards, of house site in Ward No.3 of Veljal village, Talakondapalli Mandal, Mahabubnagar District, within the boundaries specified, was purchased by their grand father Surisetty Chennaiah, s/o late Sharabhaiah in the year 1298 Fasli from one Varala Ramaiah and thereafter their grand father obtained permission from the then office of the Adalath Tahasildar, Kalwakurthy for construction of house and constructed the

same. It is also stated that after the demise of the grand father, the said house and the site had devolved upon their father Surisetty Chennaiah and his name was mutated in the village records and his father died in the year 1981 leaving behind himself, the first petitioner, the second petitioner and the father of the third petitioner as legal heirs. It is also stated that after the death of their father, they made several applications to the first respondent,
to mutate the names in the village records and there was no response. They submitted an application with all concerned records to the respondents on 08-07-1998. The then Sarpanch received the application, however, did not mutate the names. It is stated that the petitioners made an application on 27-06-2006 praying for mutation of the names in the village records. Thereafter, the second respondent issued a notice asking them to produce the records, as such they again sent all the concerned records to show the ownership to the first respondent vide letter dated
21-07-2006. They also marked copies to the third respondent and also to the District Collector. Even though, respondents 1 and 2 received the documents long back, they are not taking any steps to consider the applications and mutate the names in the village records. Further, several other factual aspects have also been narrated.

9. Fourth respondent in the counter affidavit had stated that originally his great grand father Sharabaiah acquired the said property in the name of his son i.e. his grand father Surisetty Chennaiah and his grand father was

enjoying the premises and his grandfather's name was also mentioned in the Gram Panchayat records as owner of the house
No.1-153/1 to an extent of 675 square yards. It is also stated that after the death of his grand father Surisetty Chennaiah, his father Surisetty Balakrishnaiah succeeded to the same and thereafter, his father executed a gift settlement deed dated 23-01-2006 in his favour and ever since the date of the said gift deed he has been in possession and enjoyment of the same. It is also stated that he made an application before the Gram Panchayat, Veljal for making construction of shops and after due enquiry permission was accorded in his favour on 25-05-2006. While he was proceeding with construction work, the writ petitioners began interfering and gone to the extent of denying his title over the property and hence he filed a suit for declaration of title and perpetual injunction in O.S.No.238 of 2006 on the file of the Court of the Junior Civil Judge, Kalwakurthy and the same is pending. Certain further allegations were also made and the averments made in the affidavit filed in support of the writ petition had been specifically denied. Specific stand has been taken that under the garb of the said land of 2400 square yards, the writ petitioners are claiming his property 1-153/1 admeasuring 675 square yards.

10. In the light of the facts and circumstances of the case, the extent, which is being claimed by the writ petitioners, is a larger extent and the fourth respondent is

claiming title to a smaller extent. This is a disputed question of fact. Further, specific stand is taken by the fourth respondent that a civil suit O.S.No.238 of 2006 on the file of the Court of the Junior Civil Judge, Kalwakurthy is said to be pending in relation to 675 square yards. Hence, it is to be considered whether mutation is to be effected in relation to the rest of the extent, which is being claimed. However, in the facts and circumstances of the case, inasmuch as a civil suit is said to be pending, any orders, which may be passed herein would ultimately be subject to the result of the suit. Since it is stated that the applications already had been filed by the writ petitioners and the objection had been raised by the fourth respondent, the respondents 1 and 2 shall consider the applications made by the writ petitioners after affording opportunity to them and also to the fourth respondent and pass appropriate orders in the light of the facts specified supra, within a period of four weeks from the date of receipt of this order.

11. With the above directions, the writ petition is disposed of. No costs. It is needless to say that inasmuch as the writ petition itself is disposed of, the contempt case is also accordingly disposed of.

**JUSTICE P. S. NARAYANA**

Dt.05-02-2007
GLV